

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 03-1963

United States of America,

Appellee,

v.

Mark Eugene Robinson,

Appellant.

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Appeal from the United States

District Court for the

Northern District of Iowa

[UNPUBLISHED]

Submitted: November 7, 2003

Filed: December 8, 2003

Before RILEY, McMILLIAN, and SMITH, Circuit Judges.

PER CURIAM.

Mark Robinson appeals from the final judgment entered in the District Court¹ for the Northern District of Iowa after he pleaded guilty to bank robbery in violation of 18 U.S.C. § 2113(a). The district court sentenced Robinson to 96 months imprisonment and 3 years supervised release. Counsel has moved to withdraw on appeal pursuant to Anders v. California, 386 U.S. 738 (1967), and has filed a brief challenging the district court's decision to sentence Robinson at the top of the

¹The Honorable Linda R. Reade, United States District Judge for the Northern District of Iowa.

Guidelines range. Robinson has not filed a supplemental pro se brief. For the reasons discussed below, we affirm the judgment of the district court.

Specifically, Robinson's sentence is within an unchallenged Guidelines range based on unobjected-to information in the presentence report, and thus the sentence is not reviewable. See United States v. Smotherman, 326 F.3d 988, 989 (8th Cir.) (per curiam) (holding appeals court lacks jurisdiction to review sentencing court's exercise of discretion in setting sentence within Guidelines range), cert. denied, 124 S. Ct. 293 (2003) (No. 03-5497); United States v. Woodrum, 959 F.2d 100, 101 (8th Cir. 1992) (per curiam) (holding sentence is not reviewable merely because it is at top end of properly calculated Guidelines range). Further, we have carefully reviewed the record in accordance with Penson v. Ohio, 488 U.S. 75 (1988), and have found no nonfrivolous issues.

Thus, we grant counsel's motion to withdraw, and we affirm the judgment of the district court.
